IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

HIGH RIVER LIMITED PARTNERSHIP, ICAHN PARTNERS, LP, ICAHN PARTNERS MASTER FUND, LP, ICAHN PARTNERS MASTER FUND II, LP, AND ICAHN PARTNERS MASTER FUND III LP,	:	
Plaintiffs,	:	
vs.	:	Civil Action No. 8762-CS
DELL INC., MICHAEL DELL, JAMES W. BREYER, DONALD J. CARTY, JANET F. CLARK, LAURA CONIGLIARO, KENNETH M. DUBERSTEIN, GERARD J. KLEISTERLEE, KLAUS S. LUFT, ALEX J. MANDL, SHANTANU NARAYEN, and ROSS PEROT, JR.,	:	
Defendants.	:	

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Chancery Courtroom 12A
New Castle County Courthouse
Wilmington, Delaware
Friday, August 16,2013
12:30 p.m.

- - -

BEFORE: HON. LEO E. STRINE, JR., Chancellor

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SCHEDULING CONFERENCE

CHANCERY COURT REPORTERS
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(Appearances continued):

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THE COURT: Everyone may relax.

This is, I guess, a historical occasion in the sense that it may be the most well attended scheduling conference at least in the last few days. I apologize for burdening everyone's lunchtime.

I am not going to burden it -- we're not going to have a two-hour hearing. I'm going to give you my reaction to all the papers that have come in, and then you can move on with whatever your clients wish to do in reaction to that.

I do want to say something. There seemed to have been some misapprehension about why this got moved to Friday. I think it's pretty clear just if you read the papers carefully. Members of the public that one of the claims for which expedition was sought could not actually be filed until I believe it was Tuesday or Wednesday.

So rather than proceed ahead of something that actually existed, being more modest about our place in the realm of things in terms of being human beings who exist in chronological time, it was decided to exist and to actually deal with the claim when it existed. So that's the reason why it

was Friday.

Since I don't exist out of time, and people may not wish I existed at all, but I don't exist out of chronological time. I wish to deal with things in the more traditional manner.

What I am going to deal with today is give you my reasons for how I am going to proceed in terms of the motion to expedite, realizing that there are essentially two distinct claims on which the plaintiffs, who essentially we'll call the Icahn group, no disrespect to Southeastern, but I believe Mr. Icahn and his entities have the bulk of the skin in the game from that side, especially since Southeastern sold some of their skin to Icahn.

There are basically two distinct sets of claims. There's fiduciary duty claims, and then there's the claim that was not ripe until the middle of the week which was the Section 211 statutory claim.

I am going to deal with the fiduciary duty claims first. I don't find any color to the fiduciary duty claims or any threat of irreparable injury that justifies expediting those claims.

To begin with, I take note of the total absence of any credible challenge to the

independence of the Dell special committee. There is no apparent reason to believe that the special committee is acting from anything other than a good faith belief that the meeting scheduled is in the best interests of Dell stockholders as it's set.

The background facts about the buyout process undermine any, and from this record, I mean any credibility to the contention that the Dell special committee would not be ecstatic if the Icahn group would make a firm bid paying Dell stockholders more than Michael Dell and Silver Lake Partners are offering. I'll call them the buyout group.

But there seems to be -- I think the special committee would dance in the streets if the Icahn group would make a topping bid that was firmly financed and would buy out everybody's shares at a greater price.

The reality is, in fact, to that end, the special committee offered the Icahn group due diligence, expense reimbursement, and the merger agreement that was negotiated gave them a continuous opportunity to make a traditional topping bid.

Now, the Icahn group has argued that the expense reimbursement offer was somehow illusory

because it was premised on an agreement not to run a hostile proxy contest. I have a hard time, having been around this business a long time, seeing how that supports any kind of colorable claim.

It's, frankly, very untraditional to offer anybody expense reimbursement for getting to kick the tires and do exploratory research and making a bid. That's a dollop of creme fraiche that people don't usually get. That's a special inducement. And it's essentially consistent with the traditional stand-still that you would give to encompass a hostile proxy contest.

So if you're going to give somebody not only the opportunity to give them due diligence, but to give them $25 million in potential expense reimbursement for their exploration, I don't really get why this kind of condition gives rise to any colorable claim of wrongdoing when used by a special committee.

It just doesn't make any sense to me. In fact, the fact that the special committee gave expense reimbursement to a very well known private equity firm and offered it to the Icahn group illustrates its desire to get the best value.

The moving papers in support of expedition, they're vivid, consistent with the excellent prose style of lead counsel which I have respect for. It's vivid, but it's essentially an adjectorial assault that doesn't have nouns and verbs that add up to a colorable claim.

One of the things it doesn't really take into account is that the special committee has had to address the realities of a constantly-changing target from the Icahn group. We start on March 22nd, a proposal where stockholders would get to roll over their shares on a one-to-one basis or to sell their shares for cash in an amount equal to $15 per share with a cap of 15.6 billion.

Now, I think right now a bid of 15 bucks, that wins. But that was March 22nd, and that was a proposal, and it never turned into a binding bid.

On May 9th, there's a modified proposal. Now it's down to 12 bucks in cash or 12 additional shares. There wasn't a lot of details about financing or debt commitments. We get to June 18th; proposing now that rather than a bidder making a traditional bid where it says, look, we'll

take the risk of running the company, we'll buy everybody out, we'll take the up side, that the company will do a self tender, and we won't sell until the self tender, but it would only be 72 percent of the shares at $14 for a maximum of $16 billion bought.

And the same day the Icahn group announced a group of people who were going to be on a slate of directors who I guess preliminarily believed that was a good concept but recognized, and I'll get to this in a minute, that if they're elected, they actually have to sit in the fiduciary chair, spin around in it, read the information and then make a fiduciary judgment. But we're preliminarily committed to it. But, again, it was only for 72 percent, and so folks were going to actually have still a substantial stake in Dell going forward and would have to consider that reality.

Then we get to July 12th, 6 days before the scheduled special meeting. There's a revision of the Icahn group's proposal to add a warrant to it, and the company would issue a warrant where you could purchase a Dell share for 20 bucks during a period of seven years.

So when we get to July 12th, we've got

many different moves and evolutions. The record date, as of the time, was almost 40 days distant. There had been an enormous amount of trading in the Dell shares. I believe by the Icahn group's own argument, during the month of July alone, over 25 percent of the float was traded.

Now, the Icahn group comes in and says that the Court should essentially discount the views of the new owners of the shares because they're all arbitrageurs. That argument is at odds with our law. Delaware law doesn't disregard the rights of stockholders just because they purchased in a fluid situation and because the sellers to them, who presumably were longer term holders, presumably believed that it was a good time to cash out.

Likewise, the Icahn group's argument that the interest of the special committee in allowing the actual current holders of Dell a fair opportunity to voice their views, that that should be disregarded is at odds with the Icahn group's own behavior and communications and its multiple changes to its proposals.

Why? Because -- it's obvious why. Those moves, which were happening, as I indicated,

well into July, were all designed to influence the stockholder base, including by encouraging trading. When you make proposals like "we've added a warrant" or "we've sweetened the pot," you're trying to convince the electorate to act on that new information, including taking that into account and making buying/selling decisions.

So to make moves specifically designed to influence the stockholder base, and then argue that the new base should not be reflected in the actual vote, is not an argument in favor of enfranchising Dell stockholders, but in fact, an argument for disenfranchising them.

Given the stale nature of the record date and the reality that many shares had traded hands, the special committee's determination to set a new meeting date does not create any colorable impression of wrongdoing.

Delaware courts have never hesitated to act when directors have used their legal authority in a manner that disenfranchises stockholders. The iconic case of Schnell versus Chris-Craft is an example of when our Supreme Court granted relief to the stockholders to prevent a board of directors from

moving a meeting date with the purpose of perpetuating itself in office.

In another iconic case, Blasius, the Court set aside the board's attempt to use its legal power to expand the number of directorships because that action was taken for the sole or primary purpose of thwarting a stockholder vote.

The special committee's actions here are different because they don't pose any colorable risk of disenfranchising the Dell stockholders as was the case in Blasius or Schnell.

Contrary to the Icahn group's argument, the special committee's recent conduct in negotiating changes to the merger agreement is not disenfranchising. The alteration in the voting term dealt with the reality that had emerged, and that's not really traditional. It relates to the Icahn group's own untraditional behavior.

The Icahn group was a party invited by the special committee to an auction, and it chose not to make a traditional topping bid, but, instead, to propose to seat a board slate that would cash out some but not all of the public stockholders' investments using not outside funds but the corporation's own

funds.

The alteration in the voting condition to the merger agreement still wrests control in the ultimate decision to the public float, but recognizes that the rival Icahn group was essentially differently situated from public stockholders. It's a contest for corporate control.

To prevail, the buyout group still has to get a majority of the disinterested shares voting.

Furthermore, and importantly, the moving of the record date has an enfranchising rather than disenfranchising effect because it reduces the chance that current stockholders will not have their wishes reflected because of a stale record date and the difficulty of securing voting by the previous owners.

The entrenchment mode at work in Schnell is also absent here where the special committee members are not going to be directors of Dell if the going private transaction they are recommending succeeds. They're not trying to stick around in office. There's no plausible basis for arguing that they are.

Nor is it true that the special

committee got nothing from the buyout group in exchange for revisions to the merger agreement. It got an increase of ten cents per share in the merger consideration, a 13 cent per share special cash dividend to be paid prior to closing, and a guarantee that the regular third quarter dividend will be paid.

If it is true that this is modest, then the Icahn group's ability to make a traditional buyout offer above the total consideration of the buyout group remains viable. It's even more viable. There should be a lot of head room then. Make a topping bid if the gap in value is really that high.

Then there's the reduction in the termination fee. It is a guarantee, and certainty about what the termination fee will be if the alternative goes forward, and it's a reduction from $450 million, arguably, to 180 million, that actually helps the Icahn group, because if the worry is that there are financing partners out there who you need to assuage, that's pretty good math, 450 to 180.

If you only have to pay out 180, it should make it easier to finance the company on a going forward basis because they won't have to pay out as much. So that should ease actually the ability of

someone else to finance an alternative.

It's easy, I guess, to trivialize or say people should have gotten better deals. I'm not a special committee member, and under our law, deference is due to independent directors. This is fairly late in the process, and you're dealing with a bidder who has never actually -- who has had to suffer delay from a go-shop period and to have other well-funded entities such as Blackstone and the Icahn group get to come in and kick the tires and even be offered subsidies, and none of those groups has actually offered a topping bid.

So it's hard for me, at this point, to second guess or claim it's colorable, to second guess the independent directors because they only extracted 23 cents per share, and a reduction of the termination fee at this stage in exchange for this new dynamic. I'm not sure what other leverage they really had.

As I said, peoples' own behavior when a plaintiff comes in, and in the past, had put on the table 15 bucks and has never made a bid, that may suggest that there are some real world limitations on how much anyone could pay for Dell.

Perhaps most importantly, I fail to

see how there's any color to the notion that Dell stockholders face any coercion, preclusion or other irreparable injury by virtue of the proposed schedule. If it be the case that they don't like the increased value, and they don't think it's enough, they can vote no.

Whether styled as a Unocal, Blasius or some hybrid claim, this is simply not a situation where there's any colorable basis to fear that stockholders who believe that they will be better off if the merger is defeated, and that the Icahn group's slate be seated, cannot muster the intestinal fortitude to vote no on the merger on September 12th and then vote yes for the Icahn group's slate at the next annual meeting that the board set for October 17th.

We're in America. The idea that we don't have -- that our institutional investor community can't, for a five-week period, stand firm and vote its view, is not one that's apparent to me, as I'll explain more.

So I think the core concern of both Blasius and Unocal that stockholders will be thwarted or coerced or precluded from exercising the majority

will, is not a threat that colorably exists here.

Analytically, stockholders attracted by the Icahn group's proposal should not be rationally affected by holding the annual meeting on October 17th. The whole premise of the Icahn group's proposal is that stockholders will be elected, and it would be better off if there's a new slate elected who will, when they get in office, and upon confirming their views as actual directors, with full access to the company's information, and being subject to fiduciary duties of loyalty and care, including those requiring the corporation to honor its legal obligations to its creditors, that they will proceed at that point with a leverage recap cashing out 70 percent or so of the public stock for a combination of cash and warrants, and that that will be good for the public float because the combination of the value of cashing out 71 percent or so of your thing, plus the remaining value of your equity, plus the warrant will exceed what the Michael Dell Silver Lake buyout group is offering.

And in terms of the schedule, it's important to note that the Icahn group's own proxy slate recognizes that they will have fiduciary

responsibilities, and they actually have to study this.

You're not going to be able to -- I don't think they're going to be able to get elected, and a second later, go into a board room and sign papers. That would be a fairly hazardous thing to do. They actually have to sit as directors and make that decision, and therefore, they actually can't make a binding commitment in advance to even consummate their own proposal until they've studied it in a fiduciary capacity and responsibly given it thought.

But even if they could do so, the reality is the electorate has got to be voting for the Icahn proposal and this slate on the premise that they're making a determination about the value of their remaining investment in Dell. So a couple weeks could hardly be a deal breaker.

You can't rationally expect that the benefits of this plan is going to pan out overnight. And, for example, there was a sweetener added, right? The sweetener added in July was what? It was a warrant; a warrant to purchase a Dell share for 20 bucks that you could exercise over a period of seven years.

Now, anybody going to exercise that warrant this autumn? I think you have to figure out that there's going to be value in the company that remains even after you leverage it up on this basis and if you run it where they're going to increase the remaining equity value to the level where the warrant has conceivable value. It could be people will buy and sell this, but there's got to be that expectancy.

So you have to believe that Dell's value under the management of a team put in place by the Icahn group will increase the share value to where the warrant will have real value.

Such an investor, somebody who has value, would be thinking in terms of years, not days or weeks, and would not be influenced by a difference of a few weeks in when the vote was.

Nor does the meeting date, the difference, seem to present any colorable basis to believe the Icahn group can't itself push through with its proposal unless it has a meeting on September 12th rather than October 17th.

As I indicated before, whoever gets elected at the meeting has to fulfill its fiduciary obligations. If you've never been a director of the

company, even if you're a part of a group that has had access to due diligence, it doesn't mean you have the full range of information that's available to a director.

It's not conceivable to me rationally that if he has a board slate elected on September 12th that they're going to be able to implement a financing by the end of September, and, thus, the Icahn group is likely to need an extension on its financing beyond that anyway.

The Icahn group is providing much of the financing, and if -- again, if this is a thing where the warrant is likely to have value and these other things are likely to have value, it's difficult to understand how rational financing providers won't extend it. It's also not clear why the fuse on the financing was set so short in light of the practicalities of trying to implement this kind of recapitalization anyway.

So I don't believe that that difference between September 12th and October 17th, in terms of any kind of refining, provides any colorable basis for expedition or because there's a threat of irreparable harm.

Again, the reduction in the termination fee that was secured should make financing easier.

There's also the argument that it should be expedited because the Icahn group cannot land a world class management team unless the Court somehow steps in and forces a simultaneous -- the same day the merger and the election have to occur on the same day.

That, to me -- one, it's factually unsupported by any real affidavit or anything other than just sort of pure argument. It ignores the fact that the Icahn group has had many, many months to secure an agreement with a top management team to run Dell under an Icahn-led slate.

It ignores the fact that the Icahn group was able to find folks who would put themselves out publicly to be on a slate to be a director. It's not clear why there aren't people who are willing to step in and manage if they get paid, if they have the prospect of doing so.

And there's a more important thing in terms of the role of a court of equity in dealing with a case that involves a stockholder franchise. If

anything, the failure of the Icahn group to yet identify who they wish to act as Dell's CEO makes it less rather than more equitable to grant its requested relief.

If a credible CEO prospect would be willing to surface if the merger vote is scheduled on the same day as the director election, that CEO prospect should be willing to surface if the votes are on separate days.

After all, that CEO is committing herself to managing Dell for a period beyond several days, and under the Icahn group's own preferred approach, that CEO has to surface before the merger vote if the electorate is to take that into account.

That is, if you've got a nifty cool CEO, and you're trying to allow the electorate to consider that in connection with whether to accept the going private, they've got to know who that CEO is.

But what if what the Icahn group is saying is that it would be able to secretly secure agreement with a credible CEO if a merger vote and a director election are held on the same day and then reveal its arrangements with that CEO candidate publicly only after the vote? A court of equity is

not the proper source of aid to that, as that would seem entirely inconsistent with the best interests of the public stockholders of Dell.

This is especially so for a critical reason. If the Dell stockholders choose not to accept the going private offer from Michael Dell and Silver Lake, they face a decision that is not nearly as binary as the Icahn group suggests.

Stockholders could believe that Dell's prospect as a public company under its current CEO who is the founder, are such that the consideration that the buyout group is offering is inadequate and that they are better off remaining as stockholders with Dell as a public company, but having Mr. Dell continue to run it and try to turn it around using the unique expertise he has in the company and in the industry; that is, a rational Dell stockholder could vote against the merger but not necessarily because she wants to elect the Icahn group's slate.

Rather, a public stockholder might believe that Mr. Dell can turn around Dell's prospects, and that he should and will do so in a way that shares the benefits with the public stockholders if the merger agreement is voted down.

Such a public stockholder might be grateful in some measure to the Icahn group for making the case that Dell has brighter prospects as a public company than its founder believes but not one to seat the Icahn group's slate to actually run the company.

At an annual meeting, therefore, Dell stockholders will have a choice, if the merger is defeated, between an Icahn group committed to a recapitalization and a slate committed to having Mr. Dell remain as CEO.

At that point, the Icahn group will either have or not have a CEO it can suggest, and the electorate can consider that reality and draw whatever implications from it for itself.

Now, in concluding that the Icahn group's fiduciary duty claim lacks color, this Court is not insensitive at all to the importance of the stockholder franchise. The Court's ruling earlier this year in Kallick versus Sand Ridge Energy is indicative of that historical sensitivity and its continuation.

But this Court cannot ignore that the current situation is one when an independent committee's good faith and loyalty have not been

reasonably challenged, and where the moving plaintiff has been afforded a more than open chance and more than traditional chance to make a topping bid and has consistently failed to do so.

The Court can also not ignore that the moving plaintiff has continually changed its own economic proposal, and, thus, itself, created a concern that the combination of a stale record date, huge shifts in ownership and lack of time to absorb new information will lead to a less than reliable stockholder vote.

What the moving plaintiff is essentially trying to get the Court to do is to usurp the authority of the special committee's conduct of a value maximization process by setting a court-mandated meeting at which two separate votes have to be taken on the same day.

Having provided the Court with no colorable basis to conclude that the special committee has acted in anything other than good faith, and having provided the Court with no rational basis to believe that the board's chosen approach will coerce stockholders into voting for a suboptimal merger or preclude a genuine topping bid or the election of the

Icahn group's slate at an annual meeting, if the stockholders choose to reject the merger, it would be inconsistent with equity to intrude at this sensitive time. There is no threat of irreparable injury that justifies the risks to Dell stockholders that judicial intrusion would entail.

Now, that said, I have to deal with the statutory claim. So I am not going to expedite on the fiduciary duty claim. But I think I actually am bound to set a hearing schedule for the Icahn group's statutory claim. I will hear that claim because I have to, and I respect the distinct roles of the legislature and the Court. But I am giving fair notice that what the statute says is that a court "may" order a meeting if the board does not hold one within 13 months.

By historical standards, the October 17th annual meeting that the board has set, which is about 60 days after the 13-month annual meeting requirement expired -- that was the reason. We were waiting for it to expire. That occurred in the middle of this week. It's, frankly, within the range of meeting dates that this Court itself might set under 211 after an adversarial hearing.

In cases like Opportunity Partners versus TransTech, this Court, in considering the difficulty of preparing the necessary proxy materials, ordered the company to hold an annual meeting within 60 days of the Court's ruling.

Other cases have ordered that the company hold an annual meeting several months beyond the 13-month deadline because of the realities of SEC requirements, the requirements of setting a record date in compliance with Section 213 of the code, and the importance of giving stockholders time to digest information in advance of making their voting decision regarding who should serve on the board.

In the New Castle Partners case from 2005, for example, the Court ordered the company to hold an annual meeting in 90 days. That's what the Court said: You are having a meeting in 90 days, after the company had failed to hold an annual meeting in 14 months. Why? Because the company needed time to comply with its mandate to make certain regulatory filings in preparation for the meeting.

In the Shay versus Morlan case from 1983, the Court ordered the company to hold an annual meeting in 70 days after the company had failed to

hold its annual meeting for 17 months because the company needed time to gather information and distribute it to the stockholder base so that the stockholders could make an informed decision at the annual meeting.

In Frank versus Sunstates, which is from 1998, the Court ordered the company to hold an annual meeting in 60 days after the company had failed to hold an annual meeting in 15 months because the logistical requirements for a meeting required the Court to give the company time to prepare itself for the meeting.

The reason for these orders are all case specific, of course, but they are similar to the practical concerns that exist here which are compounded by the ever-evolving positions of the parties, including the Icahn group, on the economics and the resulting change in the stockholder base.

The reality is that a Dell annual meeting held on October 17th will occur closer to the statutory period than was ordered by the Court in these other cases.

As important in these prior cases, this Court has given considerable weight to the need

to set a meeting date that actually best vindicates the stockholder's right to make an informed vote. The prior cases indicate that the importance of insuring that the protections provided by the SEC proxy rules and the record date statute are honored, and, as important, that stockholders have an adequate opportunity to absorb relevant information and make a reasoned choice.

Under the relevant federal securities standards, it does not seem at all possible to have a compliant meeting on the time frame that the Icahn group suggests. And the October 17th meeting seems to be a relatively aggressive approach to getting to an annual meeting given the requirements of law.

Given these realities, what seems a more reasonable remedy under Section 211 would be to make the meeting scheduled on October 17th a court-ordered meeting with the quorum set in accordance with Section 211, and with the Dell incumbent board lacking the ability to delay that date unilaterally again.

And this means certainly notice would be provided to all interested parties to this ongoing contest for corporate control, that a board election

would be held no later than October 17th, 2013 unless there was a specific order of the Court to the contrary because of some unexpected development.

With such relief, all the Icahn group would be required to do is to muster investors who had the courage of their convictions to hold their stock until October if they support a recapitalization whose value substantially depends on the success the Icahn group would have in managing Dell over a term of years; not days, weeks or even months.

Now, what I'm going to ask the parties to do, and they can report to me on Monday, is whether you can agree to such limited relief. I'm not going to foreclose the opportunity to argue for more.

As you can tell, I have tried to take seriously all the input I have received during the week. If you can't agree on that kind of relief, then the Icahn group's opening brief in its 211 claim will be due on August 21st, the answering brief August 26th, and the reply August 29th. And I'll hold a hearing on it in early September or late August.

As I said, I think we have to be pretty practical here, and if you look at the cases over the years and the practicalities, I find it

difficult to understand how the Court would order a meeting much in advance of the one that the board has already set.

And the Court is not going to get drawn into a tactical game whereby it tries to advantage one party or the other, nor is it going to disrespect the reality that the special committee members who are in office are, by all reasonable accounts, acting independently and have no rational entrenchment motive. So take this into account.

Again, basically, the motion to expedite the fiduciary duty claims is denied for the reasons I have given. I will expedite the 211.

I will also, if the parties agree, make it a court-ordered meeting. I want to be very clear about that just in case anybody listening to the ruling -- the fact that it's a court-ordered meeting does not mean that the Court would not have the ability to change the date.

Why is that an important caveat? Well, if somebody pops out a new idea 48 hours before a meeting, then folks on either side would be able to come to the Court and say, "Well, Nellie, you can't just pop out this idea 24 hours beforehand and not

give the electorate time to absorb it."

But if we are at a point which the Icahn group suggests, and, frankly, the buyout group suggests, and I think the special committee believes, where you have the Icahn group's position and where they are, that their final sweetener is the $20 warrant, that the Michael Dell/Silver Lake group's final sweetener is what was negotiated with the special committee, that everybody has their slate of director candidates lined up for the annual meeting that will occur if the merger agreement goes down, then if the Court -- if those are the things and nothing moves or shakes, then by having the meeting be subject to an order of the Court under 211, then the Icahn group will have obtained a substantial protection against the company being able to unilaterally move the date back.

That also, frankly, affords the Icahn group some of what I understand it to be seeking; which is to assure the stockholder base that there is some end in sight.

Without embracing the notion that the Icahn group itself has been part of the dynamic situation that's kept it alive, I think one would say,

and probably all parties might agree, that there's a level of deal exhaustion on the part of the buyout group, on the part of the Icahn group, on the part of the stockholders. And the special committee is probably tired.

So there might be utility to all concerned to knowing that the question is going to be called before the World Series starts. Because the World Series starts now in like January, right? I think -- when is the NHL finals? It's pretty soon, isn't it?

But seriously, that will put -- that is not -- that is part of why we have 211 actually; is that when a Court -- when it becomes a court-ordered meeting, it does actually limit the ability of the incumbents to really move it around.

So I appreciate you hearing my lengthy thoughts. They are probably the lengthiest thoughts I've ever had on a scheduling conference. But I tried to be proportionate to the attendants at the scheduling conference.

Why don't you consult with each other. If you can't reach agreement, let me know, but that will be the schedule, and our good reporter will

obviously get you the transcript.

Thank you, all.

(The Court adjourned at 1:15 p.m.)

CERTIFICATE

I, MAUREEN M. McCAFFERY, Official Court Reporter of the Chancery Court, State of Delaware, do hereby certify that the foregoing pages numbered 3 through 34 contain a true and correct transcription of the proceedings as stenographically reported by me at the hearing in the above cause before the Chancellor of the State of Delaware, on the date therein indicated.

IN WITNESS WHEREOF, I have hereunto set my hand at Wilmington, this 16th day of August, 2013.

/s/Maureen M. McCaffery

Maureen M. McCaffery
Official Court Reporter
of the Chancery Court
State of Delaware